

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THE ESTATE OF SEAN THOMAS
MAKAROWSKY, by and through the
personal representative of said estate,
LOUISE GAST,

Plaintiff,

v.

STEVE LOBDELL, individually and as
City of Vancouver Police Officer, CITY
OF VANCOUVER, a Municipal
Corporation,

Defendant.

CASE NO. 10-cv-5423-RBL

ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL

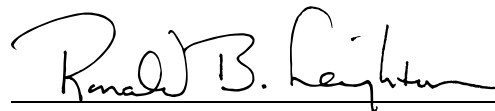
[DKT. #109]

THIS MATTER is before the Court on Plaintiff Louise Gast's motion for an order compelling Defendant City of Vancouver to produce certain documents [Dkt. #109]. The case involves a shooting that occurred during the execution of a search warrant at Sean Makarowsky's home which resulted in his death. Plaintiff, the personal representative of the Estate of Sean Makarowsky, filed suit against the Officer who shot and killed Makarowsky, claiming excessive force in violation of the Fourth Amendment, and against the City of Vancouver, claiming the City has a settled policy of tolerating misconduct and failing to adequately control its officers.

1 Plaintiff seeks an Order compelling the City to provide discovery relating to “the
2 complete personnel files,” “disciplinary files and/or records,” “complaints alleging misconduct,”
3 “tort claims,” “notes, forms, emails, reports and/or data contained in all internal affairs
4 investigations,” “administration complaints,” “performance evaluations,” “use of force reports
5 and/or firearm discharge reports,” and “reports that describe any injury suffered by any suspect
6 arrested” for all of the officers present at the time Makarowsky was shot. (Def.’s Resp. to Pl.’s
7 Mot. to Compel at 5.) Plaintiff also seeks an Order compelling the production of the cell phone
8 and pager records of all of the officers involved for the period of time between June 15, 2007 and
9 August 15, 2007.

10 The City has already agreed to provide the cell phone and pager records. (Def.’s Resp. to
11 Pl.’s Mot. to Compel at 4.) Additionally, the City stated in its Response that it would produce the
12 other disputed records if the Court denied its 12(c) motion [Dkt. #106]. (Def.’s Resp. to Pl.’s
13 Mot. to Compel at 6.) On September 6, 2012, the Court denied the City’s 12(c) motion. (Dkt.
14 #129.) Thus, it appears that the City has already agreed to turn over the requested documents. To
15 the extent that the Motion to Compel [Dkt. #109] is not moot, it is GRANTED. The Motion for
16 Attorneys’ fees [Dkt. #109] is DENIED.
17 IT IS SO ORDERED.

18 Dated this 13th day of September, 2012.

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21 Ronald B. Leighton
22 United States District Judge
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